593 fourth time are they obliged to return what they have taken. The
685 son of a married daughter, who has not succeeded in being granted something from his grandfather, takes it without permission and does not give it up for /34/ the first three times. The fourth time the bii sentences him to return the thing without a penalty, but a penalty is fixed for a fight at the time the thing is taken. All this relates also to the close kinsmen in general.

When the thief denies his guilt, the bii interrogates witnesses, but he is not sworn among kin. Incidentally the bii consoles the father (or kinsman) by the fact that he takes from the son in his turn when the latter becomes rich (collected in the Perovsk uyezd).

593 Patricide is unknown in the steppe. For this crime they would
682 banish the offender from the society after a preliminary disgrace E. A. Aleksandrov, assistant to the chief of the Kazalinsk uyezd, says that the customary law is silent concerning patricide. The killing of children can happen by mistake, and in such a case it is not punished. (1)

[847] 1. It sometimes happens that the Kazakhs in a fit of anger and in general in matters of dispute, in showing their opposition throw their children under the /horse's ?/ legs of the adversaries, who not infrequently trample them in fighting. Women especially practise this kind of opposition, throwing unweaned children under the feet of horses. Wergeld
[628] in such cases is sought from the persons in the tent or in the village.

593 Children who have not received their allotment cannot have their own separate property. But once they have received their allotment the father ceases to distribute his property to them.

[882] Until the age of 12-15, children are not yet of serious mind
[675] (akyl toktatpaidy), and therefore sales, purchases, loans and other arrangements by them are invalid. Buying and selling done against the will of the father by a son who has not yet received his allotment is not broken.

The power of the mother rests on the power of the father. Children obey her for fear that she will tell the father.

When a father wishes to free himself from an incorrigible son, he gives him a small allotment, leaving him to his own devices to earn the kalym /bride price/ if he is unmarried. If this son is already married, the father expels him without an allotment, leaving him to earn

we will not give her up to you." The second time /89/ they really do not give her up. The husband already does not go for her, but sends a third person to settle the account, i.e., to receive 3-4 kara. 683 562

If the disharmony with the husband which took place is the fault of the wife (aib khatyndan bulsa), i.e., for infidelity, a bad tongue, etc., then her relatives do not accept her, even though she runs away to them twenty times, and they say: we will not demand vengeance money for you. Then she goes to another more distant relative (baska turkun). Her lover appears there and says: "Your kinswoman has separated from her husband. I will take her and pay all the expenses." The husband takes it to court. The wife does not wish to return to him on any account. Her lover pays 6-7 kara or 30 tillias for the benefit of the husband. 586

If a lawful wife starts a quarrel with her husband in order to leave him, without any cause from his side, customary law does not permit her to do so. If in spite of this there is no possibility of keeping her with him, the husband is required to give her a letter of divorce, and the wife or a man who wishes to marry her is obliged to return in full the kalym which was received for her.

For killing his wife, the husband pays her relatives (as for mutilation) less than the usual female wergeld according to kinship, as it is said. 682 562

For barrenness (bedau, kysyr) a wife is not sent back to her father, but they ask the mullah to read over her, or send her to spend the night at holy places and burn a candle there (mullaga okutady, auliya[illegible] tunetedi charag yagib). In the poem Shura Batyr is a description of the journey of Marykbai and his wife Gul'kanys, for this reason, to the tomb of a saint, who appears to them and promises a son and a daughter. 842

After repeating the words talak (divorce) or talak koydym (I have given a divorce) three times, a divorce is validated according to the Shariat. In addition, a woman who goes away to her father's house, or to the person who married her off is usually considered divorced. She does not take property with her, but /90/ the husband gives her something, for example, one-eighth of his property, if she was not guilty in the divorce. 586

A divorced woman no longer walks covered with a veil, as she did formerly.

Former spouses can marry again, even up to three times. The fourth time a woman can marry her former husband only if she was married to an outsider after the third marriage. In the Kazalinsk uyezd, 587

586 among the relatives. The groom's father is the first to give to the contribution. This property remains with the husband in the case of divorce.

According to Umurbek, the children of divorced parents remain with the father, but an amicable agreement can be reached
587 and the young ones granted to the mother. According to Mikebai, often the relatives will not permit a minor son to go to the new
429 husband of the widow. A grown son has freedom of choice. The first of the daughters always goes with the mother, and the others remain with the successors. Now, however, the daughters too have the right to give consent or not.

Among the Kirgiz, Kurpetai Daulekulov reports that the sons and daughters remain with the father's relatives after his death. If there are several daughters the biis may allot the youngest one to the mother. According to the report of the Kirgiz Daniyar, a widow who marries a close kinsman of her husband, takes property with her and a young son. But if she marries a strange man she receives neither property nor the son, and the kalym which comes for her goes to the brothers of the deceased and in part for the use of her children. A divorced woman also fails to receive property or her son.

•182 If the step-father is killed, the step-son does not have the
593 right to claim wergeld. Likewise if the step-son is killed, the step-father has no right to demand wergeld. The wergeld is demanded by the closest kinsmen, and the step-father or the step-son can only receive a reward for the expenses born by them for the burial. The step-father has a right to demand wergeld for his own use for a killed step-son only if there are no other kinsmen.

593 /93/ The wife does the work her husband directs her to do.
562 She is not allowed to argue (erkbermeymiz). In the absence of the husband the wife feeds herself from his livestock. Even if there are no means of life for a long time, she still cannot marry another because of this.

593 There is no obstacle preventing a husband who is absent for
562 a long time from entrusting or reconveying his wife to another. Only
837 the latter is not customary. (1)

1. According to Makovetskii, I.P. 24, this happens: "the biis refuse a husband who claims the wife who has been sold."

Only daughters given to ishans as a gift (nazyr), not wives.

4:Grodekov--125 E-5 (ca 1885) 1889 RQ2 Kazak RQ2

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Misdemeanors	Opinions concerning punishments to be imposed for these acts			
	Sultan Daulet Bushaev, Perovsk uyezd	Bii Kunakbai Auliye Ata uyezd.	The Kirgiz bii Kurpetai Dauletkulov	Bii Sazabai Kurama uyezd
Instigation to fighting and murder (sukan-chilik).	Rebuke (1) of the aksakal and forcing to repent.		Not punished	Formerly the whip. (durra). Now a fine of 3 rubles.

( )

1. The reason why Sultan Daulet Bushaev imposes a rebuke, etc., and the biis of the Auliye-Ata uyezd do not, is that the former represents the patriarchal point of view, and the latter the present practice. In the words of Kunakbai, nowadays a rebuke, etc., does not lead to anything. (Table continues).

681 Bii Sultan Kanaev explains the lowering of the fines in the
685 second column of the information from Kucherbai as follows: This happens only when the biis ask the plaintiff to forgive part of the suit because of poverty. They say "Where can a thief get such a sum? Would he have stolen if he had had means?" Bii Khalmakammed added that biis have recourse to this device who receive something from the thief.

It is not obligatory to impose a fine in money in the amount of muynyna kosak kutine terkeu for the theft of money (Perovsk uyezd).

According to Torgai, one view has it that for a theft of money a fine is imposed in the amount of muynyna kosak kutine terkeu. Another opinion is that a smaller fine is determined, namely: 1) if the stolen money is all found (tugul tabylsa), then in justice (insaf kylsa) there is no other fine beyond the biilyk and syuyunchi; 2) if the money is not all found and the defendant wants to give it all but cannot immediately, /233/ then the fine, syuyunchi and all the expenses are added together into one sum, equal to half of the money which was not found. For example, if of 20 tillias, 10 tillias are given up at once and 10 tillias remain, there is a sentence to pay these 10 tillias plus 5 tillias, totalling 15 tillias.

According to Kyul'baev, for the theft of 50 tillias, if the defendant does not deny it, they ask a fine of 50 tillias plus 10 tillias (under the name of sandyk khakysy, "for the coffer", i. e., for the plaintiff), plus 5 tillias (to the bii).

In the Auliye-Ata uyezd, for the stealing of things but not live-stock a monetary fine is imposed which is much less than the amount of muynyna kosak kutine terkeu.

According to Torgai, for the theft of a long coat and other things to the sum of 10 tengas /silver coin/, the fine is established at 15 tengas if the total stolen amounts to 15 tengas, the fine is 20; if the total stolen amounts to 100 tengas the fine is 120 tengas, etc. The larger the amount of the suit, the smaller the percent added to the fine.

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681 For murder, a redemption of "khun" /wergeld/ is
682 customary, and in case it is not paid, the death of the murderer himself is asked, or that of another man from his clan. (1)

1. An interesting ritual of symbolic execution of a ram at the time the wergeld is received can be found

in Makovetskii, Pt. I, p. 71. This ritual does not exist in the Turkestan region, as is evident from the words of Sultan Kanaev: this is anarchy (nizamsiz), the act of people who are not subject to any chief (ishbir khakimga karamagan adamnyng esi).

Wergeld is paid and received not by a person but by a clan. If the murdered person and the murderer are from one clan, then it is paid and received by the lineage, if they are both from the same lineage, by the sublineage, etc. For example, if one is of the Bisata lineage, the other of the Yamanbay lineage (both these lineages constitute the Kutenchi clan, of the main clan of Kungrat), in the Chimkent uyezd all five volosts of the Bisata pay, and all five volosts of the Yamanbays receive the wergeld. The wergeld received, taking out 100 to 300 rubles for funeral and memorial services, is distributed among the volosts, then among the villages, etc. The close and distant relatives of the murdered person and the murderer, rich and poor, must pay and receive equal shares. Even though the clan of the murderer be /234/ far away or scattered over a large area, nevertheless demands are sent for the payment of their shares of the wergeld, authenticated by the affixing of many seals. Now the distribution of the wergeld received is not above abuse from influential persons.

Wergeld is not exacted when there are no kinsmen to act as plaintiffs.

According to Torgai, the rule "blood for blood" (khunga khun, kanga kan) was observed earlier in several places. Even now in the Kazalinsk uyezd the clan of the murdered person tries to commit murder in order to take blood for blood, but they are not permitted to do this, for people say: "It happened by the will of God." In general the custom of taking blood for blood no longer exists.

Now, if the community on which the wergeld is imposed is insolvent because of its small number of people, none of them is killed and the community is simply considered to be in debt. (1)

1. It is said that in Bukhara there is a custom of collecting alms for the payment of wergeld.

Those who draw together to pay the wergeld and also to receive it are called comrades in the wergeld (khundas). It is practically impossible to refuse to take part in the apportioning (shesken) of the payment of a wergeld. If one did, they would not give him a share of wergelds received and would not participate in the payment of wergeld for his own commission of murder.

681 If a small community, living in the midst of a community of many members, but not related to it, takes part by some chance in
682 the payment of wergeld for a murder committed by the large group, then both communities are considered khundas, and this numerous clan
672 must pay for a murder committed by the small community. If it refuses, the small group reminds it that they once were khundas. If the large group is still not inclined to take part in the payment, the community which is under fine is left to take a copy of the judgment and to send it along with a demand for participation /235/ in paying the wergeld to the place where the rest of their clan lives, to their motherland, so to speak. At first these are unwilling to pay, and scold them: "Why did you go away from us", but finally they do pay nevertheless.

In Kurama wergeld is not exacted from the clan but from the family: from the father, the brother and the uncle (akesi ukesi, amekesi kuyadi). Formerly there was killing for insolvency.

In the Auliye-Ata uyezd the wergeld is imposed in this way: after deliberation between the kinsmen of the payer of the wergeld, a part is assigned to the defendant himself, while the rest is paid by his kinsmen within the degree of kinship to which it is forbidden to marry. They divide this part among them.

681 The amount of wergeld for a man is the same, whether he be a
682 sultan, a hodja, a guest, a thief, a child, an adult,(1) etc., in accordance with the proverb: "The wicked and the good are equal once after death (i. e., their wergeld is the same), and another time during life" (i. e., abuse can affect everyone equally) (yaman ksi yakhsy ksige ulgende br teng keledi, tirisinde br teng keledi).

1. In the article by Gotrovitskii, "Okonchanie del polumirom po kirgizskomu obychnomu pravu" /The ending of cases by polumir /cf. below/ according to Kazakh customary law/, (Iuridicheskii Vestnik, May, 1885, p. 194), it is stated that if the widow of a murdered man remains without means with a female child, and if the murdered man had no brother whom she could marry, then she must receive 50 horses, without any concessions. But if she is young and has a male child and consequently can count on marrying one of her husband's kinsmen, then when the case is decided by polumir (karyndas kyb)i. e., with the full confession of the murderer that he has committed the crime, the payment to the widow must be limited to 25 horses.

If one is to believe the claims of the sultans, for the murder of a sultan or a hereditary bii the wergeld paid is one and a half the usual amount, namely 6 yakhsy are added to the 6 yakhsy. (Communication of Sultan Daulet Bushaev).

For the murder of a woman, including one's own wife, half a wergeld is paid.

For a murder committed by a woman, full wergeld is paid.

For a murder committed in a drunken state, the wergeld is unchanged.

For unpremeditated murder wergeld is not customary, but only /236/ a gift of clothing and covering the expenses for burial and memorial services (asatau).

If the murder occurred in self-defense, this must be proven before the plaintiffs in order to be freed from the payment of wergeld. However it is still a disputable question whether wergeld should be paid in such cases, i. e., when the murdered man was a thief, not allowing himself to be captured, or some other criminal defending himself by arms against the rider who has been sent to arrest him, or a bandit who is the first to start fighting. The plaintiffs demand the payment of the full wergeld, offering on their part to pay the fine for the attack, fighting, stealing and in general the offense which is acknowledged for the murdered man. They support themselves by saying the defendant is entering a false accusation against the murdered man, in order to avoid paying the wergeld. According to Mikebai, wergeld must be paid for the murder of a thief, even if he started the fight, if he was not the first to use a weapon. Wergeld, however, does not need to be paid for the murder of a thief, if he was the first to begin armed resistance.

E. A. Aleksandrov reports from the Kazalinsk uyezd that self defense in case of the attack of plunderers and outlaws is permitted only in a measure which is not criminal. But if the defender strikes the attacker, even though unintentionally, and it results in death or injury to a part of the body, the person guilty of this pays wergeld, while at the same time the plunderers bear responsibility for the [illegible].

If the murdered person is an orphan living with his step-father, his clan demands nevertheless that wergeld be paid for his murder. In the absence of the clan, the step-father can demand wergeld in the name of the younger brother of the victim, but must put the wergeld received to one side, to be given to the clan of the victim on their first demand (Kurama uyezd). According to Khalmakammed

681 of the Chimkent uyezd, the mother may receive part of the wergeld at
682 the will of the kinsmen. She can pay part of the wergeld, if she wishes,
for a murder committed by this orphan.

672 If a servant of a rich man dies and his heirs /237/ seek wergeld from the master, the biis examining the case must find out as their first duty whether the man froze to death for lack of clothing, or died of hunger, or was killed stealing or while engaged in other pernicious pursuits. If it can be proven by the testimony of witnesses that the death was caused by one of the above-mentioned circumstances, then the owner must pay the wergeld. But if the death occurred for one of these reasons and a dispute arises because the side does not confess, then four persons from the side of the defendants must swear an oath, or if a woman has been killed, two persons.

According to the biis Sultan Kanaev and Khalmakammed, if a servant who is traveling in pursuit of thieves or enemies is killed, it is impossible to demand wergeld from his owner, even when the murderer belongs to a tribe like the Kalmuks, from whom it is unthinkable to demand wergeld.

681 For a murdered man, according to the communication of Baymet
682 Sagyndykov of the Chimkent uyezd, 1000 Shariat tillias are exacted of 10 tengas each, and if one counts each tillia at 4 rubles, as is customary, then it is 500 tillias or 10,000 tengas. If it is paid in livestock, then 100 camels must be paid. Absalyamov reports for the same uyezd that 100 horses and 100 rams are paid for a murdered man, or 600 tillias in money. Mullah Shanchi Chinybekov of the Auliye-Ata uyezd reports that for a murdered man from one to one hundred years of age, the wergeld consists of 200 mares, and for a murdered woman from one to one hundred years of age, the wergeld is 100 mares.

There are cases in which influential relatives succeed in exacting 3-5 wergelds for one murdered clan chief. For example, in the Auliye-Ata uyezd a total sum of 1,300 tillias and one girl was exacted as wergeld and expenses, from 500 tents, for the murder of an honorable personage of the white bone by the name of Yalangtash.

According to Sultan Daulet, the former wergeld for murder was of two types:

/238/ First Type

1) 1000 sheep = 1000 tillias = 2 girls.

2) 6 yakhsy, i.e., 2 slaves, 2 dromedary camels (nar) and 2 good horses. Wild animals such as a fox, wolf, antelope, etc. could be substituted for horses.

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3) Kalyngelim - a rug of 50 tillias or 100 rubles.

4) Kara nar - i. e., a dromedary camel in black.

5) Kara chulak, at, a wounded horse, i. e., the horse of the murdered man, in black.

6) Sary yipek yaulyk, a yellow silk kerchief, i. e., the kerchief of a widow, with which she covers herself as she weeps for her husband.

Second Type

1) 500 sheep or only 500 goats, or 500 kids a year old.

2) 6 yakhsy, i. e., 2 dromedary camels, 2 horses, 1 gun and 1 wild animal (karankus).

3) A cheap rug.

4) A small dromedary camel, for example, a taylak.

5) A horse 3-4 years old.

6) Yipek yaulyk, a kerchief.

Now the wergeld is the equivalent of 1,000 rams or 2,000 rubles.

At the session of the biis of the Chimkent and Turkestan uyezds in September, 1877, the amount of the wergeld was determined as 2,000 rubles for a man and 1,000 rubles for a woman.

In the Kokandian time the wergeld was larger, namely 1,000 tillias for a man.

Other kinds of livestock of the same value can be paid in place of the animals mentioned.

Often the plaintiffs agree to a smaller sum. Baymet Sagyndykov writes that "if the litigants desire to make a peaceful settlement before the examination by the biis, at the admonition of the best /239/ people and biis, the case dispenses with an oath, and the plaintiff receives half the wergeld, in accordance with the customary law concerning peaceful settlements."

A daughter or female relative of the murderer can be given instead of the wergeld.

If the murdered person is not buried but left to be devoured by birds and wild beasts, the tyuya bastagan toguz is added to the wergeld, called "wergeld for the bones" (syuyagening khuny), for the plaintiffs are not satisfied by the wergeld and demand to be given the corpse as well. If the murderer agrees to the payment of the wergeld, but wishes to hide the corpse (syuyagen kursetpese), and this is found out, then he is obligated to send the body on a "dromedary camel in black"

681 (kara nar), covered by a rug, and to pay a fine of from one to three
682 toguz, counting here also the camel with the rug. A bactrian camel can be given in place of the dromedary, and even only a horse. (Torgai).

Usually influential persons, aksakals, volost officials, etc. appear as trusted figures from the clan of the murdered person before the sessions of the biis, and they count out a considerable share of the wergeld obtained for themselves, under the name of travel and other expenses (Perovsk and Auliye-Ata uyezd).

Among the Kirgiz the wergeld is equal to 660 tillias. The receiver of the wergeld and his relatives to the third degree inclusive receive 300 tillias. He divides the remaining 300 tillias among the biis and other eminent persons, who are not related to him, because he fears their ill will "and they are used to receiving." The remaining 60 tillias go for the biilyk and various expenses. (Reported by bii Daniyar).

Everyone who has wounded or injured another is obliged, in addition to the exaction imposed by the court, to heal the injured person at his expense and to slaughter a ram to feed him. The doctor (taub) dresses the wound with the skin of this ram, and hits him on the wound with light blows, which constitutes a good sign (irim). For wounds and injuries which were unpremeditated or received in a dispute, only the healing and nursing must be paid. If the wounded person dies, /240/ a fine is exacted for the expenses of burial and memorial services, called "related wergeld" (karindas khun).

681 Wergeld is exacted in the following amounts for bodily
683 injuries:

Among the Kazakhs	Among the Kirgiz, reported by Kurpetai Dauletkulov.
For a light wound by a knife - from atton to at bastagan toguz.	10-15 rubles.
For a heavy wound, but not mortal - tyuya bastagan toguz. According to Umurbek, the biis are not supposed to examine the case until the safety of the patient's position is cleared up.	Compensation for the cost of the sacrificial offering (sadaka), made by the relatives for recovery.
For a wound resulting in death - full wergeld.	Full wergeld.

681 According to the report of Mullah Shanchi Chinybekov, the wergeld for the putting out of one eye in a man is determined as
683 50 mares, and for the putting out of both eyes at 100 mares. If an oath is imposed, it is required of one person in the case of one eye, and of two persons, in the case of both eyes. Otherwise the customary wergeld is: for one ear - 1 camel and 9 heads of livestock; for 2 ears - 2 camels and 18 heads of livestock; for a nose - 1 camel and 9 heads of livestock; for a tooth - 1 horse and 9 heads of livestock; for breaking or mutilating one arm or leg - 25 mares; the same of both arms and legs - 50 mares; for the mutilation of the genital organ - 100 mares, and if an oath is given, it falls upon two persons from the clan of the defendant. For the same mutilation of a woman, half this amount is paid.

According to Sagyndykov, if someone cuts off someone's tongue, or hits him with such cruel blows with a stick that the victim loses the ability to speak, or loses his reason, or else if he cuts off the nose or removes skin from a place where hair grows, namely, on the chin, the guilty person pays full wergeld.

681 Abortion , as well as miscarriage resulting from the blows of the husband, remains unpunished.

682 For miscarriage resulting from the will of an outside man, a fine is paid depending on the form, sex and size of the fetus, ranging from several camels to half the wergeld. If the fetus remained alive for some time, even wergeld is paid.

Half as much is paid for a fetus of female sex as for one of male sex.

If a betrothed girl who is pregnant from her legal bridegroom performs an abortion because of shame in front of her father and the people, the bridegroom, if he discovers it, can bring both the bride and the men and women who also took part in the abortion to strict accounting before the people's court, which takes the side of the groom (Kazalinsk uyezd).

/244/ If someone strikes a pregnant woman and stillbirth results from it, the guilty person pays 100 rubles as wergeld, and if the woman herself dies from the blows, which must be proved, the guilty person pays the full wergeld for a woman. But if a woman gives premature birth to a living child, as a result of blows of a stick, and the child dies only later, the full wergeld must be paid for the dead infant, if it is fully proven that the premature birth and the death of the newborn child were the result of the blows. Here the wergeld is paid depending on the sex of the infant. (Reported by Sagyndykov).

Among the Kirgiz, the defendant in such cases justifies himself with the words: "But did I pull the baby out of you?" However he pays for the miscarriage: 30-40 rubles for a fetus of 2 months, 40 rubles if it is 3-4 months old, 40-50 rubles if it is 5-6 months, 100 rubles if it is 7-8 or 9 months old. 681 682

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It is necessary to distinguish the corporal punishments administered by the elders in the village in private fashion, from the official ones, decreed by the biis, which are an innovation which has arisen to a slight degree in the steppe from the Kokand fortresses. Official corporal punishments are not practised now. In the Auliye-Ata uyezd the present biis do not remember an example, and only two instances can be found of it in the bii's books of the Perovsk uyezd. In one, there is a threat that in case the stealing is repeated it will be punished by the whip (durra). In the other, a fine is imposed on an inveterate thief, and in case he is insolvent - 25 strokes of the whip. In the opinion of Mikebai, this last judgment comprises an error: one of these punishments should have been determined categorically: either a fine, or blows with the whip. 681 627

Private corporal punishment does not excuse the culprit from paying a fine, but the official one does. According to Aleksandrov, /245/ a fine is substituted for corporal punishments only when the plaintiff expresses his consent.

In private corporal punishment, the number of blows of the whip (kamshi) or the stick (chibyk) are never counted, and the guilty person is beaten until he repents. But if he dies from the blows, wergeld is required for him. The biis do not accept complaints for private punishment for wrongs, for example, for adultery.

No one is exempt from corporal punishment if he is caught stealing, by position or by origin (white bone, elders, small children). They usually sympathize with the old persons and small children and spare them, but if they are bound up and beaten, they cannot complain to the bii because of blows which [illegible] to illness. Women who are caught stealing are not bound or beaten. 685

What we have called private corporal punishment can be called taking the law into one's own hands, when it is particularly cruel. This last concept does not exist among the Kazakhs or the Kirgiz. There are cases in which they cut off the nose or kill a person caught in adultery.(1) It is said that at one time, the murderer of the adulterer 681 627 684

765 tries to bring the best kumys /mare's milk/. The kinsmen bring gifts, aza. Tents are set up for the guests, 50 to 100 steps from the village, one for every lineage, since only the best people from each lineage come and spend the night. Those who do not find a place in the tent come in by turns for the regalement. At the memorials all the things of the deceased are hung up in the tent on ropes: clothing, saddle, whip, gun, as the appurtenance of mourning (tuldab kaydy), while the widow sits on a bed with her hair loose, surrounded by lamenting women. (According to I. I. Ibragimov and Torgai). They play on the zurna /type of oboe/ at memorials among the Kirgiz.

[764] A traveler who dies on the road is buried by passers by with a short prayer. If the kinsmen find the body of their relative, already decomposed, they scrape away the flesh with a knife, collect the bones in a sack, and carry them home, wash them, close them in a shroud, and bury them according to the ritual (Perovsk uyezd).

765 Guests who are returning from a funeral are called syuyakchi, in distinction from ordinary travelers (yulauchi). There is a larger
• 682 fine imposed for harm of syuyakchi. If the attacker denies his attack, but there were other witnesses of this fact, for example, witnesses from among the other syuyakchi, the attack is then accepted as proof of guilt in the murder of the deceased, and no oath is required. But if the defendant does not deny the attack but does deny the murder, then an oath is customarily imposed on this matter.

However if there is no suspicion of murder and if the attacker does not succeed in taking anything and does not inflict any wounds, there is no suit on a general basis (Torgai).

According to bii Sultan, in case of only one attack without any other evidence, this cannot serve as proof of guilt of murder.

765 /260/ In the Perovsk uyezd the syuyakchi each bring a vessel (sava) of kumys with them to the funeral feast. Before their departure horse fat (kacy, kyuyumshak) is placed in their empty vessels, with the words: "so that your vessels will not be returned empty" (savangyz kuru kaytpasyn).

The host of the funeral celebration takes the role of a guest himself, giving the presiding place at the feast (zhyinding biiligi) to an aksakal or bii kinsman. The cooking and serving of the food is taken on by one young kinsman who is called tavakshi.

The graves of different clans are placed in the cemeteries (mazar, kurum).

The cemeteries are located on hills and high places with firm ground, where water from snow cannot destroy the graves. Over the

[210 cont.]
[648] [462] dispatched several trusted Kazaks to propose the marriage of his daughter to the Dzungarian sovereign.

[682] As the Russian government, which was still unaware of this last step taken by Abulkhair, awaited the execution of his promises, it was informed that he had been assassinated.

These are the circumstances which preceded his death.

[726] When he returned from the fortress of Orsk to the auls, he assembled a band of armed Kazaks and moved at their head to pillage the unfortunate Karakalpaks, who had already suffered so much from him and his son. He met Sultan Barak, who had long hated him and who envied him the marks of distinction and the prerogatives which had been granted him by the Russian government. He held a grudge against Abulkhair particularly because [579] the latter had pillaged the gifts he had been sent by the khan of [643] Khiva. In addition, both claimed rights of sovereignty over the Karakalpaks who had established themselves in the Kazak horde. Both were violent and vindictive, and consequently their meeting could not take place without a quarrel.

Barak, who had more people with him, was the first to open combat. Abulkhair's band, which was less numerous, could not withstand the first encounter and took to flight, and the Khan, who was carried away by the fugitives, was obliged to follow their example. But Shigai [211] the sultan, son of Barak, overtook him and unhorsed him with a blow of his spear. Then Barak himself arrived and assuaged his bloody rage by killing his enemy with his own hands (1).

1. We have drawn this information from Tevkelev's journals, which are preserved in Orenburg in the archives of the Border Commission.

[726] Although the Karakalpaks had suffered much from Abulkhair, his death only brought them a new blow instead of bringing them relief. For Barak, delivered from his rival, did not miss the chance to attack them and pillage them.

[211 cont.]

[648] This act against a people considered subject to Russia and [726] the assassination of a khan who was a vassal of the empire made [152] Barak afraid to remain in the regions near the Russian borders, [166] and for this reason he hastened to move away from the Aral Sea. Having taken the route toward Turkestan, he seized the towns of Ikan, Otrar, and Saganak and established his camps between these towns. He did not reside here long, however, for the [682] following year (1749), on a visit to a khoja with his two sons, he was poisoned (2).

2. In the papers preserved in the archives of the Border Commission in Orenburg it can be seen that the Kazaks of the Little [662] Horde who came to the Russian border then affirmed that Barak had been poisoned by order of the Dzungarian kungtaidji, who was blamed by Nurali for the assassination of his father.

The news of Abulkhair's death could not have caused an unpleasant impression in Russia. During the last years of his life, the conduct of this khan had been such that the [possibility of the] administration of the Little Horde by a new chief aroused greater hope than Abulkhair's death aroused compassion. The dignity of the empire demanded only that the Kazaks, as subjects, should request the Empress to confirm their new khan. It would have been dangerous and useless to annul the choice made according to the ancient customs of the nation and to designate another arbitrarily. But it seemed easy to cause the people to elect one of Abulkhair's sons. With this in mind Nepluev, after [212] consulting Tevkelev, sent to the horde an officer who was charged with contriving the means of making the choice of the people fall upon Sultan Nurali and if he was successful to convince him as well as the elders of the necessity of sending an embassy to Petersburg to request the confirmation of the Empress.

rejoicing and celebration, while if it was a girl, no celebration at all took place.[136]

The wife never ceased to maintain a significant relationship with her father's family, and she was never fully incorporated as a member of her husband's lineage and family. The fire ceremonial may be regarded in the same light as it is elsewhere on the steppe; its function is a propitiation by the wife of the spirits of the husband's line, a part of the shamanist religion, in which her spirits were antipathetic to his. Sociologically as well as religiously, moreover, the wife continued to retain her ties to her father's line. Thus if the husband killed his wife, he had to pay a fine of a full kun of 200 horses, the amount paid by a convicted murderer in restitution to the family of the victim.[137] If the wife committed suicide because of her husband's maltreatment, the husband paid half a kun, or 100 horses, to her family.[138]

The social position of the wife may be further clarified by an examination of the kalym. If this were an economic and legal transaction pure and simple, her position would be clear: she would have to be regarded as a res or chattel, and kalym could then be translated as

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[136] Radloff, op. cit., I, 475-477.

[137] Izrastsov, 67.

[138] Ibid., 93.